

House Bill 456

By: Representatives Meadows of the 5th, Ramsey of the 72nd, Mitchell of the 88th, Williams of the 178th, and Bearden of the 68th

A BILL TO BE ENTITLED
AN ACT

To amend Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to secondary metals recyclers, so as to provide for definitions; to provide for certain reclassification of certain metal items; to add posting of suspected metal thieves; to provide for notice of penalties for metal theft; to expand unlawful acts; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to secondary metals recyclers, is amended by revising Code Section 10-1-350, relating to definitions, as follows:

"10-1-350.

As used in this article, the term:

(1) 'Common recycled material' means bottles and other containers composed of steel, tin, or aluminum and other consumer goods that are metal and that are recycled by individual consumers and not in the bulk or quantity that could be supplied or recycled by large business establishments. 'Common recycled material' does not include a metal tray used by a product producer, distributor, retailer, or agent of a product producer, distributor, or retailer as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products.

(2) 'Consumer goods' means goods that are used or bought for use primarily for personal, family, or household purposes.

~~(1)~~(3) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

~~(2)~~(4) 'Law enforcement officer' means any duly constituted peace officer of the State of Georgia or of any county, municipality, or political subdivision thereof.

~~(3)~~(5) 'Nonferrous metals' means stainless steel beer kegs and metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof.

~~(4)~~(6) 'Person' means an individual, partnership, corporation, joint venture, trust, association, and any other legal entity.

~~(5)~~(7) 'Personal identification card' means a driver's license or identification card issued by the Department of Driver Services or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.

~~(6)~~(8) 'Purchase transaction' means a transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

(9) 'Recyclable materials' means the metal materials described in Code Section 10-1-351, provided those materials are not special purchase articles.

~~(7)~~(10) 'Regulated metal property' means any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers.

(11) 'Scrap metal processor' means any person, firm, or corporation which is engaged in the business of buying scrap vehicles, automotive parts, or other metallic waste by weight to process such material into scrap metal for remelting purposes; which utilizes machinery and equipment for processing ferrous and nonferrous metallic scrap into prepared grades; and whose principal product is metallic scrap.

(12) 'Scrap vehicle' means any vehicle which has been crushed or flattened by mechanical means or which has been otherwise damaged to the extent it cannot economically be repaired or made roadworthy.

~~(8)~~(13) 'Secondary metals recycler' means any person who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals that have served their original economic purpose, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(14) 'Special purchase article' means:

(A) Beer kegs;

(B) Cable, wire, electrical components, and other equipment used in providing cable service or any utility service, including, but not limited to, copper or aluminum coverings, housings, or enclosures related thereto;

(C) Grave markers, sculptures, plaques, and vases made out of metal, the appearance of which suggest that the articles have been obtained from a cemetery;

(D) Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals, metal marked with the name of a political subdivision of the state; and other metal articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state;

(E) Historical, commemorative, and memorial markers and plaques made out of metal;

(F) Four-wheel metal carts, commonly referred to as 'grocery carts,' that are generally used by individuals to collect and transport consumer goods while shopping; and

(G) Four-wheel metal carts, commonly referred to as 'metal bossies,' that are used to transport or merchandise food products that are stored in crates, shells, or trays."

SECTION 2.

Said article is further amended by revising Code Section 10-1-351, relating to record of transactions, as follows:

"10-1-351.

(a) A secondary metals recycler shall maintain a legible record of all purchase transactions to which such secondary metals recycler is a party. Such record shall include the following information:

(1) The name and address of the secondary metals recycler;

(2) The date and time of the transaction;

(3) The weight, quantity, or volume and a description of the type of regulated metal property purchased in a purchase transaction. For purposes of this paragraph, the term 'type of regulated metal property' shall include a general physical description, such as wire, tubing, extrusions, or castings;

(4) The amount of consideration given in a purchase transaction for the regulated metal property;

(5) A signed statement from the person receiving consideration in the purchase transaction stating that he or she is the rightful owner of the regulated metal property or is entitled to sell the regulated metal property being sold;

(6) The name and address of the person delivering the regulated metal property to the secondary metals recycler;

(7) The distinctive number from, and type of, the personal identification card of the person delivering the regulated metal property to the secondary metals recycler; and

(8) The vehicle license tag number, state of issue, and the type of vehicle, if available, used to deliver the regulated metal property to the secondary metals recycler. For

purposes of this paragraph, the term 'type of vehicle' shall mean an automobile, pickup truck, van, or truck.

(b) A secondary metals recycler shall maintain or cause to be maintained the information required by subsection (a) of this Code section for not less than two years from the date of the purchase transaction.

(c) For recyclable materials that are not special purchase articles, secondary metals recyclers shall use the following category codes to identify the recyclable materials that the secondary metals recycler receives:

(1) Number one copper, which includes clean copper pipe, clean copper wire, or other number one copper that does not have solder, paint, or coating;

(2) Number two copper, which includes unclean copper pipe, unclean copper wire, or other number two copper;

(3) Sheet copper, which includes copper roofing, copper gutters, copper downspouts, and other sheet copper;

(4) Insulated copper wire;

(5) Aluminum or copper radiators, which includes aluminum radiators, aluminum copper radiators, and copper radiators;

(6) Red brass, which includes red brass valves and other red brass;

(7) Yellow brass, which includes yellow brass fixtures, yellow brass valves and fittings, ornamental brass, and other yellow brass;

(8) Aluminum sheet;

(9) Aluminum extrusions, which includes aluminum bleachers, aluminum benches, aluminum frames, aluminum pipe, and other aluminum extrusions;

(10) Cast aluminum, which includes aluminum grills, lawnmower decks made of aluminum, aluminum motor vehicle parts and rims, and other cast aluminum;

(11) Clean aluminum wire;

(12) Unclean aluminum wire;

(13) Aluminum exteriors, which includes aluminum siding, aluminum gutters and downspouts, aluminum shutters, aluminum trim, and other aluminum exterior items;

(14) Contaminated aluminum;

(15) Stainless steel, which includes sinks, appliance housing, dishes, pots, pans, pipe, and other items made out of stainless steel;

(16) Large appliances, which includes consumer and other appliances;

(17) Miscellaneous steel, which includes steel grates, steel farm machinery, steel industrial machinery, steel motor vehicle frames, and other items made out of steel;

(18) Sheet irons, which includes bicycles, motor vehicle body parts made of iron, and other items made using sheet iron;

(19) Motor vehicle nonbody parts, which includes motor vehicle batteries, radiators, and other nonbody motor vehicle parts;
(20) Catalytic converters;
(21) Lead; and
(22) Electric motors.

(d) All journal brasses and other railroad metals shall be held by the secondary metals recycler for a period of 30 days after being purchased or acquired.

(e) A secondary metals recycler shall do all the following with respect to each special purchase article the secondary metals recycler purchases or receives:

(1) Comply with the requirements of this subsection in addition to the requirements of subsection (a) of this Code section;
(2) Take a photograph of each special purchase article;
(3) Obtain from the seller or provider of the special purchase article proof that the seller or provider owns the article;
(4) If payment is rendered for the special purchase articles, a check shall be issued for the purchase of the special purchase articles;
(5) Withhold payment for such purchase for a period of two days after the day the special purchase articles are purchased; and
(6) If an asserted owner or such owner's agent of stolen special purchase articles provides proof of having filed a stolen property report with the appropriate law enforcement agency, make records describing special purchase articles the secondary metals recycler purchased or received after the alleged date of theft available for inspection to the asserted owner or owner's agent for a period of six months after the alleged date of theft of the articles, except that the secondary metals recycler shall withhold the name of the person from whom the special purchase articles were purchased or received and the amount paid for the special purchase articles."

SECTION 3.

Said article is further amended by revising Code Section 10-1-352, relating to inspections by law enforcement officers, as follows:

"10-1-352.

(a) During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall, after properly identifying himself or herself as a law enforcement officer, have the right to inspect:

(1) Any and all purchased regulated metal property in the possession of the secondary metals recycler; and

(2) Any and all records required to be maintained under Code Section 10-1-351.

(b) A secondary metals recycler shall provide a copy of the records required to be maintained under Code Section 10-1-531 to any law enforcement officer, upon request for such copies.

(c) Records submitted to any law enforcement officer pursuant to this Code section are not subject to Article 4 of Chapter 18 of Title 50, relating to open records. A person who claims to own a stolen article that may be identified in these records, or an agent of that person, who provides proof of having filed a stolen property report with the appropriate law enforcement agency, may request these records. The law enforcement agency shall provide such records, but shall redact information that reveals the name of the seller of any article and the price the secondary metals recycler paid for any article the secondary metals recycler purchased or the estimated value of any article the secondary metals recycler received. The law enforcement agency shall determine which records to provide, based upon the time period that the alleged theft is reported to have taken place. A law enforcement agency may charge or collect a fee for providing records required by this Code section."

SECTION 4.

Said article is further amended by revising Code Section 10-1-353, relating to the hold on regulated metal property believed to be stolen, notice, and release of hold, as follows:

"10-1-353.

(a) The law enforcement agency that serves the jurisdiction in which the secondary metals recycler is located shall provide a list, as that agency determines appropriate, of the names and descriptions of persons known to be or who are suspected to be thieves or receivers of stolen property. No secondary metals recycler shall purchase or receive articles from any person identified on the list the secondary metals recycler receives from the law enforcement agency.

(b) Every secondary metals recycler shall post a notice in a conspicuous place on such recycler's premises notifying persons who may wish to transact business with the recycler of the penalties applicable to any person who does any of the following:

(1) Provides a false personal identification card to the secondary metals recycler;

(2) With purpose to defraud, provides any other false information to the secondary metals recycler in connection with the secondary metals recycler's duty to maintain records required under this article; or

(3) Violates Code Sections 16-8-2 through 16-8-9, the penalties for which are found at Code Section 16-8-12, including any theft of a grave marker, plaque, monument, or memorial to the dead and theft of ferrous metals or regulated metal property as defined in Code Section 10-1-350.

~~(a)~~(c) Whenever a law enforcement officer has reasonable cause to believe that any item of regulated metal property in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall specifically identify those items of regulated metal property that are believed to have been stolen and that are subject to the notice, and shall inform the secondary metals recycler of the information contained in this Code section. Upon receipt of the notice issued in accordance with this Code section, the secondary metals recycler receiving the notice shall not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the place of business of the secondary metals recycler for 15 calendar days after receipt of the notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

~~(b)~~(d) No later than the expiration of the 15 day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall specifically identify those items of regulated metal property that are believed to have been stolen and that are subject to the extended hold notice, and shall inform the secondary metals recycler of the information contained in this Code section. Upon receipt of the extended hold notice issued in accordance with this Code section, the secondary metals recycler receiving the extended hold notice shall not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the place of business of the secondary metals recycler for 30 calendar days after receipt of the extended hold notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

~~(c)~~(e) At the expiration of the hold period or, if extended in accordance with this Code section, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the regulated metal property unless other disposition has been ordered by a court of competent jurisdiction."

SECTION 5.

Said article is further amended by revising Code Section 10-1-355, relating to purchases of regulated metal property exempted from application of this article, as follows:

"10-1-355.

This article shall not apply to purchases of regulated metal property from:

- (1) Organizations, corporations, or associations registered with the state as charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations or from any nonprofit corporations or associations;

- (2) A law enforcement officer acting in an official capacity;
- (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler;
- (4) Any public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler;
- (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof has been presented to the secondary metals recycler; ~~or~~
- (6) A manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business; or
- (7) A sale or donation of common recycled material."

SECTION 6.

Said article is further amended by revising Code Section 10-1-356, relating to prohibited acts, as follows:

"10-1-356.

It shall be unlawful for:

- (1) A secondary metals recycler to engage in the purchase or sale of regulated metal property between the hours of 9:00 P.M. and 6:00 A.M.; ~~and~~
- (2) Any person to give a false statement of ownership or to give a false or altered identification or vehicle tag number and receive money or other consideration from a secondary metals recycler in return for regulated metal property; ~~;~~
- (3) A secondary metals recycler to purchase or receive any metal articles from a person who refuses to provide the secondary metals recycler the person's identification card;
- (4) A secondary metals recycler to purchase or receive any special purchase articles from any person who is under 18 years of age; and
- (5) A secondary metals recycler to purchase or receive more than one catalytic converter from the same person except from a scrap metal processor as defined in Code Section 43-43-1."

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.